

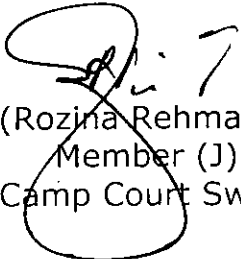
ORDER
04.10.2022


Learned counsel for the petitioner present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments on restoration application heard and record perused.

The Service Appeal bearing No. 278/2020 titled "Bacha Sherin Versus Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar and three others", was dismissed in default vide order dated 05.07.2022. According to learned counsel for the petitioner, he was busy in the august Peshawar High Court, Peshawar as well as Principal bench of this Tribunal at Peshawar, therefore, he could not appear before the Tribunal on the said date. The petitioner has submitted an application for restoration of appeal on 22.07.2022, which is well within time. The application for restoration of service appeal is supported by duly sworn affidavit. Law also favours adjudication on merit by avoiding technicalities.

The application in hand is, therefore, accepted and Service Appeal bearing No. 278/2020 stands restored on its original number. To come up for arguments on 09.11.2022 before the D.B at Camp Court Swat.

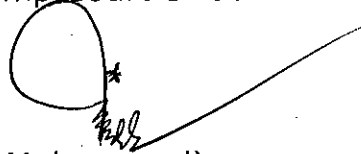
ANNOUNCED
04.10.2022


(Rozina Rehman)
Member (J)
Camp Court Swat


(Salah-Ud-Din)
Member (J)
Camp Court Swat

05.09.2022

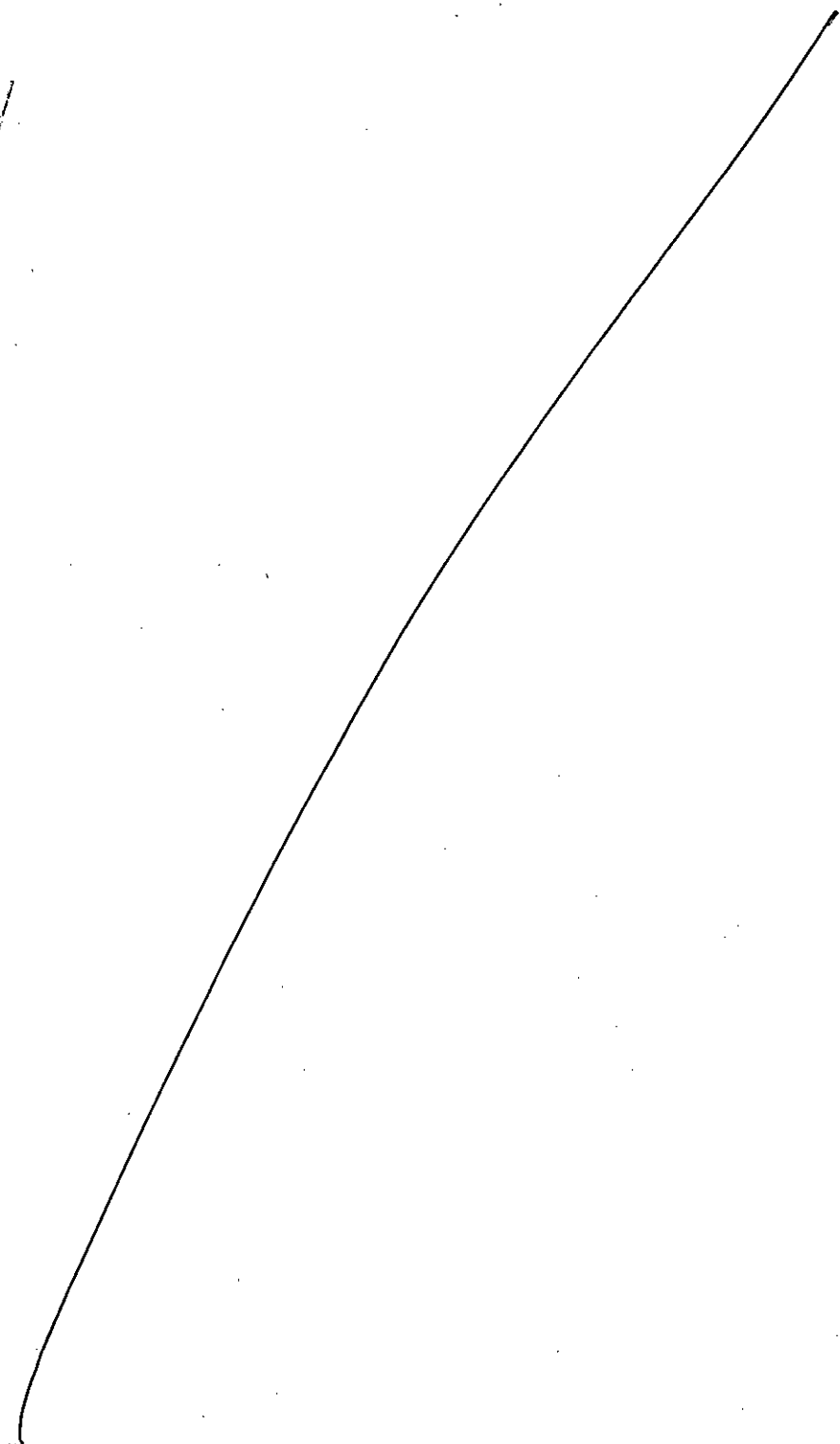
Clerk of learned counsel for the applicant present. Notice be issued to the respondents for submission of reply as well as arguments on restoration application on 04.10.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)
Member (Executive)
Camp Court Swat



(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat




Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 409 /2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.07.2022	<p>The application for restoration of appeal No. 278/2020 submitted today by Mr.Noor Muhammad Khattak Advocate. It is fixed for hearing before touring Division Bench at Swat on <u>5-9-22</u>. Original file be requisitioned. Notices to the applicant and his counsel be also issued for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR,

Restoration Appli. no. 409/2022

CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

EDUCATION DEPT.

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0334-5277323

APPELLANT

THROUGH:

**NOOR MUHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Restoration Appli. no. 409/2022

CM. NO. _____/2022

IN

APPEAL No. 278/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 764

dated 22/7/2022

BACHA SHERIN

VS

EDUCATION DEPT.

APPLICATION FOR RESTORATION OF THE ABOVE
MENTIONED APPEAL

R/SHEWETH:

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
- 3- That the mentioned service appeal was dismissed for non-prosecution vide order dated 05.07.2022. Copy of the order sheet 05.07.2022 attached as annexureA.
- 4- That as the matter pertaining in the instant appeal has not been decided on merit, therefore the mentioned service appeal may be restored for the sack of justice.
- 5- That there is no legal bar in restoring the mentioned appeal.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.

Dated:

PETITIONER/APPLICANT

Through:

NOOR MUHAMMAD KHATTAK
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

C.M. NO. _____/2022
IN
APPEAL No. 278/2020

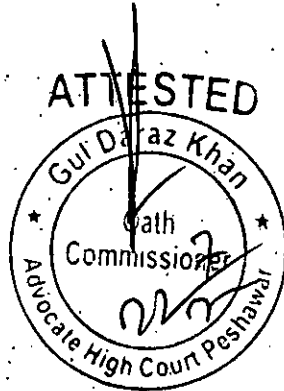
BACHA SHERIN

VS

EDUCATION DEPTT.

AFFIDAVIT

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 278 / 2019

295

Mr. Bacha Sherin, PST (BPS-12),
GPS Jatgram warai, District Dir Upper.....



Appellant

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

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APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 01-01-1996 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 01-01-1996 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Filed to-day
Registrar
9/01/2020

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 01-01-1996 as stop gap arrangement. (Copy of the appointment order is attached as annexure.....A)
- 2- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.
- 3- That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no. 855/2016 before Peshawar high court Mingora Bench, which was

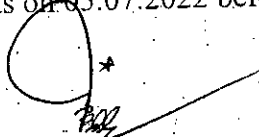
4




07.06.2022

Appellant in person present. Mr. Kabirullah Khattak
learned Additional Advocate General for the respondents present:

Counsel are on strike. Adjourned. To come up for
arguments on 05.07.2022 before D:B at camp court Swat.


(Mian Muhammad)
Member (E)
Camp Court Swat


(Kalim Arshad Khan)
Chairman
Camp Court Swat


05.07.2022


Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith
Nasim Khan Section Officer for respondents present.

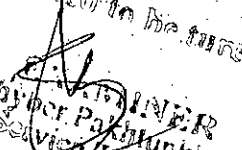
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his counsel turned up till rising of the Bench. Consequently, instant
service appeal is hereby dismissed in default for non-prosecution.
Parties are left to bear their own costs. File be consigned to the
record room.

Announced.
05.07.2022


(Farzha Paul)
Member(E)
Camp Court, Swat


(Rozina Rehman)
Member(J)
Camp Court, Swat

Date of Presentation of Application 05/07/22
Number of Words 800
Court Fee 10/-
Stamp 10/-
Name of Applicant
Date of Judgment 20/07/22
Date of Deeds, etc. 20/07/22

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

R.A- NO. 409/2022
CM. NO. _____/2022

IN
APPEAL No. 278/2020

BACHA SHERIN VS EDUCATION DEPT.

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APPELLANT

THROUGH:
NOOR MUHAMMAD KHATTAK
ADVOCATE

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

EDUCATION DEPT.

**APPLICATION FOR RESTORATION OF THE ABOVE
MENTIONED APPEAL**

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- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
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Dated:

PETITIONER/APPLICANT

Through:

NOOR MUHAMMAD KHATTAK
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

C.M. NO. _____/2022

IN

APPEAL No. 278/2020

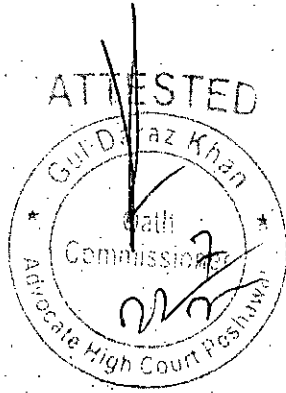
BACHA SHERIN

VS

EDUCATION DEPTT.

AFFIDAVIT

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

A-3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 278 /2019

295

Mr. Bacha Sherin, PST (BPS-12),
GPS Jatgram warai, District Dir Upper.....



Dated 11/2020

Appellant

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

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APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 01-01-1996 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 01-01-1996 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

led to-day

Brief facts giving rise to the present appeal are as under:

Registrar

10/1/2020 1-

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2- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

Certified to be true copy

3-
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no. 855/2016 before Peshawar high court Mingora Bench, which was

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Appellant in person present. Mr. Kabirullah Khattak
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Counsel are on strike. Adjourned. To come up for
arguments on 05.07.2022 before D:B at camp court Swat.

(Mian Muhammad)
Member (E)
Camp Court Swat

(Kalim Arshad Khan)
Chairman
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith
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Parties are left to bear their own costs. File be consigned to the
record room.

Announced:
05.07.2022

(Fareeha Paul)
Member(E)
Camp Court, Swat

(Rozina Rehman)
Member(J)
Camp Court Swat

Date of Presentation of Application 05/07/22
 Number of Words 800
 Copying Fee 10/-
 Receipt _____
 Total 10/-
 Name of Copyist _____
 Date of Copy/Issue of Copy 20/07/22
 Date of Delivery of Copy 20/07/22

Certified to be true copy
A. H. N. N. N. N. N.
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

R. A. NO. 409/2022
CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

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APPELLANT

THROUGH:

**NOOR MUHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

EDUCATION DEPT.

APPLICATION FOR RESTORATION OF THE ABOVE
MENTIONED APPEAL

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It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.

Dated:

PETITIONER/APPLICANT

Through:

NOOR MUHAMMAD KHATTAK
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

C.M. NO. _____/2022

IN

APPEAL No. 278/2020

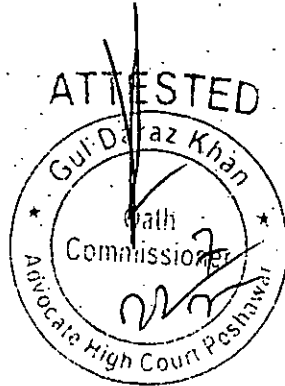
BACHA SHERIN

VS

EDUCATION DEPTT.

AFFIDAVIT

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 278 /2019

Mr. Bacha Sherin, PST (BPS-12),
GPS Jatgram warai, District Dir Upper.....



No. 295

Dated 11/2020

Appellant

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
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**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN
BPS-12 w.e.f. 01-01-1996 I.E. FROM THE DATE OF INITIAL
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PRAYER:

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R/SHEWETH:

ON FACTS:

led to-day

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

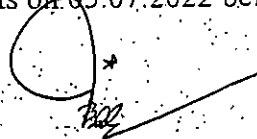
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Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D:B at camp court Swat.


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Camp Court Swat



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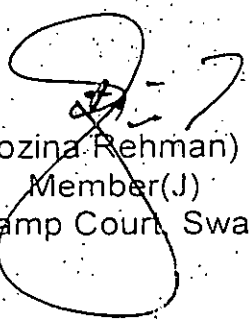
05.07.2022 Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith Nasim Khan Section Officer for respondents present.

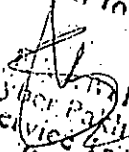
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Announced:
05.07.2022


(Farzeha Paul)
Member(E)
Camp Court, Swat


(Rozina Rehman)
Member(J)
Camp Court Swat.

Date of Presentation of Application 05/07/22
Number of Words 800
Copying Fee 10/-
Filing 10/-
Total 10/-
Name of Copyist _____
Date of Copying of Copy 20/07/22
Date of Delivery of Copy 20/07/22

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

R.A. No. 409/2022
CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

EDUCATION DEPT.

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2.	Affidavit	2
3.	Order dated 5-7-2022	A	3-4

APPELLANT

THROUGH:

[Signature]
NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

EDUCATION DEPT.

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Through:

NOOR MUHAMMAD KHATTAK
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
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IN

APPEAL No. 278/2020

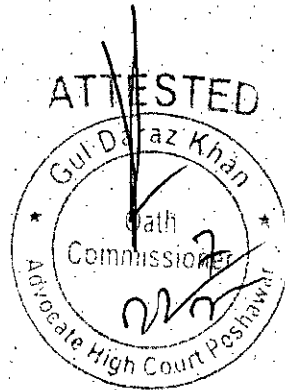
BACHA SHERIN

VS

EDUCATION DEPTT.

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DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

A (3)

APPEAL NO. 978 /2020

Khyber Pakhtunkhwa
Service Tribunal

Mr. Bacha Sherin, PST (BPS-12),
GPS Jatgram warai, District Dir Upper.....



295
Dated 11/1/2020
Appellant

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
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APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 01-01-1996 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST. AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

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Service Tribunal
Peshawar

4



07.06.2022

Appellant in person present. Mr. Kabirullah Khattak

learned Additional Advocate General for the respondents present:

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D:B at camp court Swat.

[Signature]

(Mian Muhammad)
Member (E)
Camp Court Swat

[Signature]

(Kalim Arshad Khan)
Chairman
Camp Court Swat

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05.07.2022

[Signature]

(Farzana Paul)
Member(E)
Camp Court, Swat.

[Signature]

(Rozina Rehman)
Member(J)
Camp Court, Swat.

Date of Presentation of Application 05/07/22

Number of Words 800

Court Fee 10/-

Costs 10/-

Name of Applicant 20/07/22

Date of Disposal 20/07/22

Certified to be true copy

[Signature]

Chairman
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

R.A - no. 409/2022
CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

EDUCATION DEPT.

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APPELLANT

THROUGH:

[Signature]
NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

CM. NO. _____/2022

IN

APPEAL No. 278/2020

BACHA SHERIN

VS

EDUCATION DEPT.

APPLICATION FOR RESTORATION OF THE ABOVE
MENTIONED APPEAL

R/SHEWETH:

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
- 3- That the mentioned service appeal was dismissed for non-prosecution vide order dated 05.07.2022. Copy of the order sheet 05.07.2022 attached as annexureA.
- 4- That as the matter pertaining in the instant appeal has not been decided on merit, therefore the mentioned service appeal may be restored for the sack of justice.
- 5- That there is no legal bar in restoring the mentioned appeal.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.

Dated:

PETITIONER/APPLICANT

Through:

NOOR MUHAMMAD KHATTAK
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

C.M. NO. _____/2022

IN

APPEAL No. 278/2020

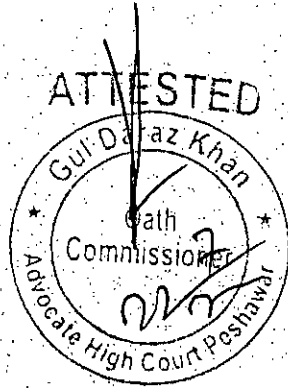
BACHA SHERIN

VS

EDUCATION DEPTT.

AFFIDAVIT

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

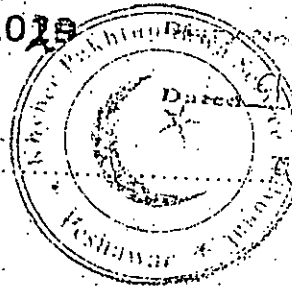
A-3

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 278 /2018

295

Mr. Bacha Sherin, PST (BPS-12),
GPS Jatgram warai, District Dir Upper



Appellant

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

.....RESPONDENTS

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 01-01-1996 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 01-01-1996 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

date-day
10/11/2020
1-2020-1-

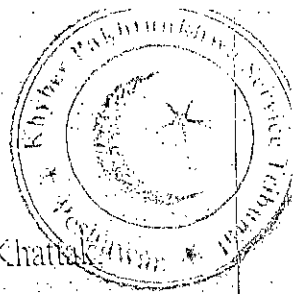
Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 01-01-1996 as stop gap arrangement. (Copy of the appointment order is attached as annexure.....A)
- 2- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no. 855/2016 before Peshawar high court Mingora Bench, which was

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07.06.2022 Appellant in person present. Mr. Kabirullah Khattak
learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for
arguments on 05.07.2022 before D:B at camp court Swat.

(Mian Muhammad)
Member (E)
Camp Court Swat

(Kalim Arshad Khan)
Chairman
Camp Court Swat

05.07.2022 Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith
Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor
his counsel turned up till rising of the Bench. Consequently, instant
service appeal is hereby dismissed in default for non-prosecution.
Parties are left to bear their own costs. File be consigned to the
record room.

Announced.
05.07.2022

(Farzeha Paul)
Member(E)
Camp Court, Swat

(Rozina Rehman)
Member(J)
Camp Court, Swat

Date of Presentation of Application 05/07/22
Number of Words 800
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Deposit 10/-
Total 10/-
Name of Copyist _____
Date of Submission of Copy 20/07/22
Date of Delivery of Copy 20/07/22

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Kyber Pakhtunkhwa
Service Tribunal
Peshawar